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FEDERAL RIGHTS UNDER SCHOOL DESEGREGATION LAW.
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THIS REPORT PROVIDES ANSWERS TO A VARIETY OF QUESTIONS REGARDING FEDERAL SCHOOL DESEGREGATION POLICY UNDER TITLE VI OF THE 1964 CIVIL RIGHTS ACT. IT PRESENTS THE "REVISED STATEMENT OF POLICIES FOR SCHOOL DESEGREGATION PLANS," WHICH WAS ISSUED IN MARCH 1966 BY THE U. S. OFFICE OF EDUCATION. THE STATEMENT SPECIFICALLY DESCRIBES THE REQUIREMENTS FOR VOLUNTARY DESEGREGATION PLANS BASED ON GEOGRAPHIC ATTENDANCE ZONES AND FREEDOM OF CHOICE. (LB)

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
OFFICE OF EDUCATION

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THE UNITED STATES COMMISSION ON CIVIL RIGHTS

FEDERAL RIGHTS under SCHOOL DESEGREGATION LAW

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The United States Commission on Civil Rights, an independent, bipartisan agency established by the Civil Rights Act of 1957, and as amended in 1960 and 1964, is authorized to:

- Investigate complaints alleging that citizens are being deprived of their right to vote by reason of their race, color, religion, or national origin;
- Study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution;
- Appraise Federal laws and policies with respect to equal protection of the laws;
- Investigate allegations of vote fraud; and
- Submit interim reports and a final and comprehensive report of its activities, findings, and recommendations to the President and the Congress.

The Civil Rights Act of 1964 also directs the Commission to serve as a national clearinghouse for civil rights information. This publication is issued by the Commission as part of its clearinghouse function. The questions contained in this publication were those most frequently asked by persons who attended a series of nine conferences on school desegregation in Southern and border States. The conferences were sponsored by State Advisory Committees to the Commission.

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INTRODUCTION

The Civil Rights Act of 1964 forbids racial discrimination in any activity or program that receives financial support from the Federal Government. This means that public school systems which receive Federal funds must administer educational programs without racial distinctions if they are to continue to receive Federal money. Title VI of the Civil Rights Act of 1964 requires that racial discrimination be eliminated from classrooms, school sponsored projects outside the classrooms, services to pupils, educational facilities, hiring and assignment of faculty, and parents' participation in appropriate school activities.

In March 1966, the U.S. Office of Education published a *Revised Statement of Policies for School Desegregation Plans Under Title VI of the Civil Rights Act of 1964*. The Revised Statement of Policies superseded the *General Statement of Policies . . . Respecting Desegregation of Elementary and Secondary Schools* the Office of Education issued in April 1965. Under the new Guidelines for School Desegregation, local Boards of Education must assume the responsibility for making the changes that will desegregate their school systems. All desegregation plans must be approved by the U.S. Office of Education.

Local school boards usually select one of two plans for desegregating schools. The most widely used plan is called "Freedom of Choice". The other is known as the "Geographic Attendance Zone Plan".

Under the Freedom of Choice Plan, students are given the opportunity once a year to choose the school they wish to attend. Each year, several months before the beginning of the new school term, the Board of Education must send students and their parents a letter explaining the particular plan under which the district's schools are being desegregated. The letter must inform the students and their parents that they may choose the school they wish to attend. It must list the schools in the district, their location, and the grades covered. The parents and students should return the name of the school they select to the office of the school superintendent within 30 days after receipt of the letter. Students who are 15 years old or who will enter Grades 9 through 12 in the following school year may make their own choice of a school to attend under the Freedom of Choice Plan unless the parents wish the student to make a different choice.

If no choice is indicated, the student will be assigned without regard to race to the school nearest his home that has space for

him. When overcrowding results under a Freedom of Choice Plan, students will be assigned to schools nearest their homes.

The local school board has the further responsibility of notifying the community each year that the Freedom of Choice Plan is available to all students, of developing community support for it, and taking the steps necessary to protect all persons exercising their rights under the plan.

Under the Geographic Attendance Zone Plan, students are assigned to schools according to the location of their homes. Where this plan is used, boards of education must establish a single zone plan and assign students to schools on the sole basis of geography and with no regard for race, color, or national origin.

Students with special educational needs, such as those with physical or mental handicaps, can be assigned to a school outside their normal attendance zone when schools within their attendance zone are not equipped to meet their particular needs.

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I. DESEGREGATION PLANS

HOW CAN I FIND OUT IF MY SCHOOL DISTRICT RECEIVES FEDERAL MONEY?

Most school districts receive Federal assistance. You can find out about your school district by writing to your State Department of Education or to the U.S. Office of Education, Washington, D.C., 20202.

IF IT DOES RECEIVE FEDERAL MONEY, WHAT REQUIREMENTS MUST IT MEET?

If a school district is not under court order to desegregate, it must either be desegregated or follow a plan for desegregation of students, teachers, facilities, transportation, and services. If it is under court order, it must obey the court order. If it does not meet any of these three requirements, the Office of Education may refuse to give Federal money to that district. In addition, one or more parents, either by themselves or assisted by an organization, can always bring suit to challenge a segregated school condition.

WHAT KINDS OF DESEGREGATION PLANS ARE ACCEPTABLE?

There are several kinds of desegregation plans acceptable to the Federal government. Most of the communities in the South use a "Freedom of Choice" plan. Others divide the community into geographic attendance areas and assign each child to the school for his area. Some districts close small Negro schools and assign the Negro children and teachers to white schools. Still others put only a few grades in each school and assign children by grade regardless of race.

HOW LONG WILL THE PLANS TAKE TO ACHIEVE DESEGREGATION OF ALL GRADES?

Most of the plans called for desegregation of all 12 grades for the 1965-66 school year. All plans must provide for desegregating 12 grades by the 1967-68 school year.

WHAT IF MY CHILD'S GRADE IS NOT YET COVERED BY THE DESEGREGATION PLAN?

The child can transfer to a white school under any of the following conditions: (1) his present school does not offer the courses of study he desires; (2) he wants to attend a desegregated school already attended by a brother, sister, or any relative living in his household; (3) he meets all the requirements for transfer under ordinary circumstances; (4) he would otherwise have to attend a school outside of the school district.

WHAT IF MY CHILD IS ENTERING THE SCHOOL SYSTEM FOR THE FIRST TIME IN A GRADE THAT IS NOT COVERED BY THE CURRENT "FREEDOM OF CHOICE" PLAN?

He may attend the school of his choice.

HOW WILL I KNOW IF MY SCHOOL DISTRICT HAS A "FREEDOM OF CHOICE" PLAN?

Most school districts in the South use "Freedom of Choice" plans. If the district is under this plan, each pupil and his parents will receive a letter in the spring explaining their rights under the plan, a Choice of School Form, and a notice explaining the plan.

WHAT WILL THE "FREEDOM OF CHOICE" LETTER SAY?

It will ask parents and pupils to choose a school within 30 days. The choice form will list all schools (white and Negro) that you may choose from, their grades, and locations. The notice will explain the plan in detail. The letter will come from your school superintendent in the spring.

MAY THE "FREE CHOICE" FORMS WHICH ARE SENT TO PARENTS AND STUDENTS CONTAIN ANY QUESTIONS OTHER THAN THOSE PRESCRIBED BY THE OFFICE OF EDUCATION?

No.

MAY RACE BE ASKED ON THE "FREE CHOICE" FORMS?

Yes.

WHY MAY RACE BE ASKED ON THE "FREE CHOICE" FORMS?

Race may be asked on the "Free Choice" forms so that the school district can report to the Office of Education on the progress made in desegregating schools. It cannot be used for assignment or intimidation.

ARE THE REPORTS ON PUPIL AND TEACHER DESEGREGATION AVAILABLE TO THE PUBLIC?

Yes. You can see these reports at the office of the superintendent. He is required by the Guidelines to show them to you.

TO WHOM SHOULD THE "FREE CHOICE" FORMS BE RETURNED?

"Free Choice" forms should be returned to the superintendent. If you receive a return envelope addressed to the principal, or instructions to return your form to the principal, this is a violation of the Guidelines and should be reported to the Equal Educational Opportunities Program, U.S. Office of Education, Washington, D.C., 20202.

WILL THE "FREE CHOICE" FORMS BE KEPT BY THE SUPERINTENDENT?

Yes. They must be kept for three years.

WILL STUDENTS WHO RETURN THEIR FORMS EARLY HAVE A BETTER CHANCE OF GETTING INTO THE SCHOOL OF THEIR CHOICE?

No. All letters must be mailed to parents on the first day of the choice period. There can be no preference given to those who return their forms early in the 30-day period.

CAN THE CHILD CHOOSE HIS OWN SCHOOL?

Yes, if he is 15 years old or will enter Grades 9, 10, 11, or 12 the following year unless his parents wish to make a different choice.

MAY PREFERENCE BE GIVEN TO CHOICES OF CHILDREN WHO CHOOSE SCHOOLS IN WHICH THEY WILL BE A MINORITY?

Yes, if the school district so desires. But no preference can be given to children who will be in the majority.

WHAT IF I DON'T RETURN THE CHOICE FORM DURING THE 30-DAY CHOICE PERIOD?

You may return it at any time before the child begins school next year. If the form is not filled out by the end of the first week of school, the child will be assigned to the school nearest his home where space is available, without regard to race. Preference will be given to students who return the form during the 30-day choice period.

DOES FAILURE TO EXERCISE CHOICE GUARANTEE ASSIGNMENT TO THE NEAREST SCHOOL —WHITE OR NEGRO?

Only if there is space. The child will be assigned to the nearest school (white or Negro) that has space.

WHEN MORE CHILDREN CHOOSE A SCHOOL THAN THE SCHOOL CAN ACCOMMODATE, WHICH CHILDREN WILL BE ASSIGNED THERE?

Those who live nearest the school.

DOES THE OFFICE OF EDUCATION SET A STANDARD FOR OVER-CROWDING?

No, this is left to the school district. But the standard must be applied equally.

CAN A TEACHER OR PRINCIPAL TELL ME WHICH SCHOOL TO CHOOSE?

No. You and your child decide which school he will choose. Teachers, principals, and other school officials cannot tell you which school to choose or influence your choice in any way.

CAN MY CHILD'S NAME BE PRINTED IN THE NEWSPAPER OR PUBLICIZED IF I CHOOSE A WHITE SCHOOL?

No. It is a violation of Federal regulations to publicize information about choices made by individual students or about the schools to which they are assigned.

WHAT IF ONLY A FEW NEGRO CHILDREN ENTER WHITE SCHOOLS IN MY SCHOOL DISTRICT UNDER A "FREEDOM OF CHOICE" PLAN?

If your school district has a sizable percentage of Negro children and few of them are in white schools, the Federal government can require the school district to take additional actions to desegregate, such as holding a new choice period, increasing teacher desegregation, or putting into effect some other kind of plan.

IF NO WHITE CHILDREN APPLY TO NEGRO SCHOOLS, WHAT WILL HAPPEN TO THOSE NEGRO SCHOOLS?

There are three possibilities: (1) some white children may be assigned to them to avoid overcrowding in the white schools; (2) they may remain all-Negro; (3) they may be closed down and the students reassigned to other schools.

TO BE IN COMPLIANCE WITH THE GUIDELINES, MUST THERE BE SOME CHILDREN OF BOTH RACES IN EACH SCHOOL?

No. The Guidelines call for some racial integration within the school system, but not necessarily within each school.

WHAT CAN BE DONE ABOUT REMAINING NEGRO SCHOOLS THAT ARE INFERIOR TO WHITE SCHOOLS?

A lawsuit may be brought under the 14th Amendment to bring about equality. Also, a complaint should be made to the Equal Educational Opportunity Program, U.S. Office of Education, Washington, D.C., 20202.

WHAT IS THE MINIMUM REQUIREMENT FOR PUPIL DESEGREGATION?

There is no minimum requirement. The Guidelines call for "reasonable progress".

II. COURT ORDERS

WHAT IS A SCHOOL DESEGREGATION COURT ORDER?

A School Desegregation Court Order is the instruction given by a court after a school district has been sued and found to have been maintaining segregated schools. It tells the school district what it must do to achieve desegregation.

WHAT IF THE SCHOOL DISTRICT DECIDES TO DO WITHOUT FEDERAL MONEY AND CONTINUES TO HAVE SEGREGATED SCHOOLS?

The law requires a school district to desegregate whether or not it receives Federal money. If a school district has been sued and ordered to desegregate, it must obey the court's order. If it has not been sued, one or more parents with a child attending school in that district, either by themselves or assisted by an organization, can sue a school district to force it to desegregate. If a parent cannot afford to sue, cannot get a lawyer, or is otherwise unable to sue, he may make a complaint to the Civil Rights Division, U.S. Department of Justice, Washington, D.C., 20530, and ask the Federal Government to sue.

HOW DO I FIND OUT IF MY SCHOOL DISTRICT IS UNDER COURT ORDER?

To find out about your district, write to the Office of Education, Washington, D.C., 20202 or the Department of Justice, Washington, D.C., 20530.

HOW DO I FIND OUT WHAT MY SCHOOL DISTRICT MUST DO UNDER THE COURT ORDER?

Since court orders are often hard to understand, you might ask a lawyer to explain it to you. He, or you, can get a copy from the Clerk of the Federal Court for a fee.

IS THERE LIKELY TO BE MORE DESEGREGATION UNDER A "FREE CHOICE" PLAN THAN UNDER A COURT ORDER?

There is often more desegregation under a "free choice" plan since court orders often fall short of the requirements of the Guidelines.

III. VIOLATIONS AND COMPLAINTS

WHAT CAN I DO IF LOCAL OFFICIALS DO NOT OBEY THE DESEGREGATION PLAN OR COURT ORDER?

You may make a complaint to the Civil Rights Division, U.S. Department of Justice, Washington, D.C., 20530 and to the Equal Educational Opportunities Program, U.S. Office of Education, Washington, D.C., 20202.

HOW DO I KNOW WHETHER TO SEND MY COMPLAINT TO THE OFFICE OF EDUCATION OR THE DEPARTMENT OF JUSTICE?

To be sure it gets to the right agency, send the same information to both.

WHAT INFORMATION SHOULD BE IN THE COMPLAINT?

The complaint can be a letter. It should contain the facts you are complaining about, including the names and addresses of the schools and people involved, dates of incidents, and any other details that you are able to give.

DO I HAVE TO SIGN THE COMPLAINT?

You must sign all complaints to the Department of Justice but it is not necessary to sign complaints to the Office of Education. However, it makes it easier for them to investigate if they know who complained. If you do not wish to give your name, just write out what happened and mail it without signing it.

WILL NAMES OF PERSONS MAKING A COMPLAINT BE DISCLOSED BY THE OFFICE OF EDUCATION?

No, not without consent of the person complaining.

CAN I COMPLAIN TO THE OFFICE OF EDUCATION BY TELEPHONE?

Yes. The number in Washington, D.C. is (202) 962-0333. Ask for the Equal Educational Opportunities Office and tell them you have a complaint.

WHERE ELSE MAY I SEND A COPY OF MY COMPLAINT?

You may send a copy of your complaint to the U.S. Commission on Civil Rights, Washington, D.C., 20425. You should also keep a copy for yourself.

AFTER MAKING A COMPLAINT, WHAT KIND OF RESPONSE SHOULD I EXPECT?

You should expect a letter acknowledging that your complaint has been received. In some cases, a Federal representative may come to discuss it with you. He will have identification to show that he is a Federal representative. In other cases, he may telephone you.

WHAT IF I RECEIVE NO ANSWER?

If you do not receive an answer within a reasonable period of time, you should write or call Washington again to see if your complaint has been received and what is being done about it.

IV. PROTECTION

WHAT KIND OF PROTECTION SHOULD I EXPECT FOR MY FAMILY IF I AM ONE OF THE FIRST TO SEND MY CHILD TO A WHITE SCHOOL?

The local school authorities are responsible for protecting persons exercising rights under the plan, or affected by it, from interference by students or staff members. Such protection must be given both on and off the school grounds. If the local officials cannot provide necessary protection, they must seek assistance from other officials.

WHAT IF WE DO NOT RECEIVE PROTECTION FROM LOCAL AUTHORITIES?

Notify the nearest FBI office. Also, make a complaint to the Civil Rights Division, Department of Justice, Washington, D.C., 20530 and to the Equal Educational Opportunities Program, Office of Education, Washington, D.C., 20202.

V. NEWLY DESEGREGATED SCHOOLS

WHAT ABOUT TRANSPORTATION TO SCHOOL?

Whatever transportation is provided for white children must also be provided for Negro children.

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IF TRANSPORTATION IS PROVIDED FOR CHILDREN IN WHITE OR INTEGRATED SCHOOLS, MUST IT ALSO BE PROVIDED FOR CHILDREN IN ALL-NEGRO SCHOOLS WHO LIVE THE SAME DISTANCE FROM SCHOOL?

Yes.

WHAT SHOULD I EXPECT IN THE WHITE SCHOOLS IN TERMS OF DESEGREGATION OF FACILITIES, SERVICES, AND ACTIVITIES?

The law says that there can be no discrimination in school facilities, services, and activities. This includes sports participation, social and educational activities, drinking fountains, washrooms, lunchrooms, classroom seating, auditoriums, locker rooms, use of materials, buses, etc. Also, Negro parents may attend PTA meetings, commencement exercises, and all other school events.

MAY NEGRO SCHOOLS BE GIVEN DIFFERENT VACATIONS (TO PICK COTTON FOR EXAMPLE) FROM WHITE SCHOOLS?

No.

ATHLETIC RULES OFTEN REQUIRE THAT A STUDENT ATTEND A SCHOOL FOR ONE YEAR BEFORE PARTICIPATING IN SPORTS. CAN THIS RULE BE APPLIED TO CHILDREN WHO TRANSFER UNDER A "FREE CHOICE" PLAN?

No, not if the student is attending school on a desegregated basis for the first time as a transfer student.

IF, UNDER CERTAIN CIRCUMSTANCES, A STUDENT WHO TRANSFERS FROM ONE SCHOOL TO ANOTHER LOSES CERTAIN PRIVILEGES, CAN THIS BE APPLIED TO CHILDREN WHO TRANSFER UNDER A "FREE CHOICE" PLAN?

No, not if the student is attending school on a desegregated basis for the first time as a transfer student.

WHAT IF MY CHILD IS TREATED BADLY AND INSULTED IN A NEWLY DESEGREGATED SCHOOL BY TEACHERS AND OTHER STUDENTS?

It is the responsibility of school officials to see that these things do not happen. You can make a complaint to the local school officials or to the Equal Educational Opportunities Program, U.S. Office of Education, Washington, D.C., 20202 or to the Civil Rights Division, U.S. Department of Justice, Washington, D.C., 20530 or to all of these.

WHAT WILL HAPPEN TO NEGRO TEACHERS AS SCHOOLS ARE DESEGREGATED?

It is a violation of Federal regulations for a school system to dismiss, demote, or pass over teachers for retention, promotion, or rehiring because of race. If a teacher must be replaced because of desegregation, no teacher from outside the system can be brought in unless the displaced teacher is not qualified to fill the vacancy. If the district is going to have fewer teachers because of desegregation, it must retain those who are best qualified regardless of race. In cases where teachers need to upgrade their skills, the Federal Government finances programs to train them to be better teachers.

WHO IS RESPONSIBLE FOR TEACHER DESEGREGATION?

The superintendent and school boards have the responsibility for hiring and assigning teachers. They are required to desegregate teaching staffs. A Negro teacher who wishes to be assigned to a white school can so advise the proper school officials in the district.

WHAT CAN BE DONE ABOUT DIFFERENT SALARIES FOR WHITE AND NEGRO TEACHERS?

It is a violation of the Constitution for school authorities to make race a factor in determining salaries. A teacher or a group of teachers or a teachers' organization can sue the school officials to force them to equalize pay. The U.S. Attorney General can join in the suit.

DO THE GUIDELINES INCLUDE DESEGREGATION OF THE SCHOOL DISTRICT STAFF OTHER THAN TEACHERS?

Yes. They include desegregation of all School District Staff who work directly with the Educational Program.

APPENDIX

REVISED STATEMENT OF POLICIES FOR SCHOOL DESEGREGATION PLANS UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

March 1966

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Office of Education

Revised Statement of Policies for School Desegregation Plans Under Title VI of the Civil Rights Act of 1964

(Superseding the General Statement of Policies Issued in April 1965—45 CFR, Part 181)

Subpart A—*Applicability of This Statement of Policies*

§ 181.1 Title VI and the HEW Regulation

Section 601 of Title VI of the Civil Rights Act of 1964 provides that:

> No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

As required by Section 602 of Title VI, the Department of Health, Education, and Welfare has issued a Regulation to assure the elimination of discrimination in Federal aid programs it administers. The HEW Regulation was published as Part 80 of Title 45, Code of Federal Regulations (45 CFR Part 80).

§ 181.2 Compliance by School Systems Eliminating Dual School Structure

To be eligible for Federal aid, a school system must act to eliminate any practices in violation of Title VI, including the continued maintenance of a dual structure of separate schools for students of different races. The HEW Regulation recognizes two methods of meeting this requirement: (1) a desegregation order of a Federal court; or (2) a voluntary desegregation plan.

§ 181.3 Purpose of This Statement of Policies

This Statement of Policies applies to public elementary and secondary school systems undergoing desegregation to eliminate a dual school structure. It sets forth the requirements which voluntary desegregation plans must meet for the Commissioner to determine under the HEW Regulation that a plan is adequate to accomplish the purposes of Title VI. This Statement supersedes the "General Statement of Policies Under Title VI of the Civil Rights Act of 1964 Respecting Desegregation of Elementary and Secondary Schools," issued in April 1965 and published as 45 CFR Part 181.

§ 181.4 Initial Demonstration of Compliance

To be eligible for Federal aid, a school system must first assure the Commissioner that it will comply with Title VI and the HEW Regulation. It must submit the form of assurance that meets its circumstances, under §§ 181.5, 181.6, or 181.7 below.

§ 181.5 Systems Without Dual School Structure

(a) *Submission of Form 441.* A school system which does not maintain any characteristic of a dual school structure may initially demonstrate compliance by submitting HEW Form 441. This is an assurance of full and immediate compliance with Title VI.

(b) *Resubmission Not Required.* A school system which has appropriately submitted HEW Form 441 need not submit a new copy with subsequent requests for Federal aid, but need only affirm when requested that the assurance submitted continues in effect.

(c) *Supplementation of Assurance.* The Commissioner may require supplementation of HEW Form 441 when he has reasonable cause to believe that there is a failure to comply with any provision of Title VI or the HEW Regulation.

§ 181.6 Systems Under Federal Court Order for Desegregation

(a) *Submission of Order.* A school system under a Federal court desegregation order which meets the requirements of the HEW Regulation may submit, as evidence of compliance with Title VI, a copy of the court order, together with an assurance that it will comply with the order, including any future modification.

(b) *Resubmission Not Required.* A school system under a court order accepted by the Commissioner need not submit another copy, but must submit any modification not previously submitted.

(c) *Revision of Court Orders.* A school system under a court order for desegregation which is not in accord with current judicial standards is subject to legal action by the Department of Justice, or by the parties to the original suit, to modify the order to meet current standards.

§ 181.7 Systems With Voluntary Desegregation Plans

(a) *Submission of Form 441–B.* A school system with a voluntary desegregation plan must provide an assurance that it will abide by the applicable requirements for such plans contained in this Statement of Policies. Such assurance may be given by submitting HEW Form 441–B to the Commissioner. After April 15, 1966 commitments of funds for new activities will be subject

to deferral for school systems which have failed to submit HEW Form 441–B.

(b) *Changing Type of Plan.* A school system may change from one type of desegregation plan to another if such action would eliminate segregation and all other forms of discrimination more expeditiously. A school system planning to change the type of its plan must submit a new plan meeting the requirements of this Statement of Policies, together with HEW Form 441–B, for a determination by the Commissioner as to the adequacy of the plan to accomplish the purposes of Title VI.

(c) *Retaining Present Type of Plan.* A school system with a desegregation plan accepted by the Commissioner need not resubmit its plan if it intends to continue under the same type of plan. If a plan accepted by the Commissioner fails to meet any requirement under this Statement of Policies, the submission of HEW Form 441–B will be deemed to amend the plan so that it will meet such requirement. Amendments to the plan are not to be submitted unless requested. However, certain supporting materials must be submitted, as provided in Subparts B, C, D, and F below.

(d) *Initial Submittal of Plans.* If no desegregation plan has been submitted or accepted for a school system, HEW Form 441–B and a plan meeting the requirements of this Statement of Policies must be submitted.

[§§ 181.8 through 181.10 reserved]

Subpart B—*Basic Requirements for All Voluntary Desegregation Plans*

§ 181.11 Various Types of Desegregation Plans

It is the responsibility of a school system to adopt and implement a desegregation plan which will eliminate the dual school system and all other forms of discrimination as expeditiously as possible. No single type of plan is appropriate for all school systems. In some cases, the most expeditious means of desegregation is to close the schools originally established for students of one race, particularly where they are small and inadequate, and to assign all the students and teachers to desegregated schools. Another appropriate method is to reorganize the grade structure of schools originally established for students of different races so that these schools are fully utilized, on a desegregated basis, although each school contains fewer grades. In some cases desegregation is accomplished by the establishment of non-racial attendance zones. Under certain conditions, a plan based on free choice of school may be a way to undertake desegregation. In certain cases the purposes of Title VI may be most expeditiously accomplished by a plan applying two or more of the foregoing procedures to certain schools or different grade levels. Based on consideration of all the circumstances of a particular school system, the Commissioner may determine that its desegregation plan is not adequate to accomplish the purposes of Title VI, in which case he may require the adoption of an alternative plan. In any case where the State education agency is pursuing policies and programs for expediting the elimination of the dual school structure, the Commissioner will consider this factor in determining whether a particular type of plan is adequate for any given school system in such State.

§ 181.12 Student Assignment Practices

Title VI precludes a school system from any action or inaction designed to perpetuate or promote segregation or any other form of discrimination, or to limit desegregation or maintain what is essentially a dual school structure. Any educational opportunity offered by a school system must be available to students without regard to race, color, or national origin. In particular, any academic tests or other procedures used in assigning students to schools, grades, classrooms, sections, courses of study or for any other purpose must be applied uniformly to all students without regard to race, color, or national origin. Curriculum, credit and promotion procedures must not be applied in such a way as to penalize or hamper students who transfer from one school to another pursuant to a desegregation plan.

§ 181.13 Faculty and Staff

(a) *Desegregation of Staff.* The racial composition of the professional staff of a school system, and of the schools in the system, must be considered in determining whether students are subjected to discrimination in educational programs. Each school system is responsible for correcting the effects of all past discriminatory practices in the assignment of teachers and other professional staff.

(b) *New Assignments.* Race, color, or national origin may not be a factor in the hiring or assignment to schools or within schools of teachers and other professional staff, including student teachers and staff serving two or more schools, except to correct the effects of past discriminatory assignments.

(c) *Dismissals.* Teachers and other professional staff may not be dismissed, demoted, or passed over for retention, promotion, or rehiring, on the ground of race, color, or national origin. In any instance where one or more teachers or other professional staff members are to be displaced as a result of desegregation, no staff vacancy in the school system may be filled through recruitment from outside the system unless the school officials can show that no such displaced staff member is qualified to fill the vacancy. If as a result of desegregation, there is to be a reduction in the total professional staff of the school system, the qualifi-

cations of all staff members in the system must be evaluated in selecting the staff members to be released.

(d) *Past Assignments.* The pattern of assignment of teachers and other professional staff among the various schools of a system may not be such that schools are identifiable as intended for students of a particular race, color, or national origin, or such that teachers or other professional staff of a particular race are concentrated in those schools where all, or the majority, of the students are of that race. Each school system has a positive duty to make staff assignments and reassignments necessary to eliminate past discriminatory assignment patterns. Staff desegregation for the 1966–67 school year must include significant progress beyond what was accomplished for the 1965–66 school year in the desegregation of teachers assigned to schools on a regular full-time basis. Patterns of staff assignment to initiate staff desegregation might include, for example: (1) Some desegregation of professional staff in each school in the system, (2) the assignment of a significant portion of the professional staff of each race to particular schools in the system where their race is a minority and where special staff training programs are established to help with the process of staff desegregation, (3) the assignment of a significant portion of the staff on a desegregated basis to those schools in which the student body is desegregated, (4) the reassignment of the staff of schools being closed to other schools in the system where their race is a minority, or (5) an alternative pattern of assignment which will make comparable progress in bringing about staff desegregation successfully.

§ 181.14 Services, Facilities, Activities, and Programs

(a) *General.* Each school system is responsible for removing any segregation and any other form of discrimination affecting students in connection with all services, facilities, activities and programs (including transportation, athletics, and other extra-curricular activities) that may be conducted or sponsored by or affiliated with the schools of the system.

(b) *Specific Situations.*

(1) A student attending school for the first time on a desegregated basis may not be subject to any disqualification or waiting period for participation in activities and programs, including athletics, which might otherwise apply because he is a transfer student.

(2) If transportation services are furnished, sponsored or utilized by a school system, dual or segregated transportation systems and any other form of discrimination must be eliminated. Routing and scheduling of transportation must be planned on the basis of such factors as economy and efficiency, and may not operate to impede desegregation. Routes and schedules must be changed to the extent necessary to comply with this provision.

(3) All school-related use of athletic fields, meeting rooms, and all other school-related services, facilities, activities, and programs, such as commencement exercises and parent-teacher meetings, which are open to persons other than enrolled students, must be open to all such persons and must be conducted without segregation or any other form of discrimination.

(4) All special educational programs, such as pre-school, summer school and adult education, and any educational program newly instituted, must be conducted without segregation or any other form of discrimination. Free choice desegregation procedures normally may not be applied to such programs.

§ 181.15 Unequal Educational Programs and Facilities

In addition to the changes made in student assignment practices under its desegregation plan, each school system is responsible for removing all other forms of discrimination on the ground of race, color, or national origin. For example, some school systems still maintain small, inadequate schools that were originally established for students of a particular race and are still used primarily or exclusively for the education of students of such race. If the facilities, teaching materials, or educational program available to students in such a school are inferior to those generally available in the schools of the system, the school authorities will normally be required immediately to assign such students to other schools in order to discontinue the use of the inferior school.

§ 181.16 Attendance Outside School System of Residence

No arrangement may be made nor permission granted for students residing in one school system to attend school in another school system in any case (1) where the result would tend to limit desegregation or maintain what is essentially a dual school structure in either system, or (2) where such attendance is not available to all students without regard to race, color, or national origin.

§ 181.17 Official Support for Desegregation Plan

(a) *Community Support.* School officials must take steps to encourage community support and acceptance of their desegregation plan. They are responsible for preparing students, teachers and all other personnel, and the community in general, for the successful desegregation of the school system.

(b) *Information to the Public.* Full information concerning the desegregation plan must be furnished freely to the public and to all television and radio stations and all newspapers serving the community. Copies of all reports on student and staff assignments required under § 181.18 below must be available for public inspection at the office of the Superintendent of the school system.

(c) *Protection of Persons Affected.* Each school system is responsible for the effective implementation of its desegregation plan. Within their authority, school officials are responsible for the protection of persons exercising rights under, or otherwise affected by, the plan. They must take appropriate action with regard to any student or staff member who interferes with the successful operation of the plan, whether or not on school grounds. If officials of the school system are not able to provide sufficient protection, they must seek whatever assistance is necessary from other appropriate officials.

§ 181.18 Reports

(a) *Anticipated Enrollment.* By April 15 of each year, or by 15 days after the close of the spring choice period in the case of plans based on free choice of schools, each school system must report to the Commissioner the anticipated student enrollment, by race, color, or national origin, and by grade of each school, for the following school year. The report submitted for the 1966–67 school year must also include the comparable data for the 1965–66 school year. Any subsequent substantial change in anticipated enrollment affecting desegregation must be reported promptly to the Commissioner.

(b) *Planned Staff Assignments.* By April 15 of each year, each school system must report to the Commissioner the planned assignments of professional staff to each school for the following year, by race, color, or national origin and by grade, or where appropriate, by subject taught or position held. The report for April 15, 1966 must also include the comparable data for the 1965–66 school year. Any subsequent change in planned staff assignments affecting staff desegregation must be reported promptly to the Commissioner.

(c) *Actual Data.* As soon as possible after the opening of its schools in the fall, but in any case within 30 days thereafter, each school system must determine and promptly report to the Commissioner the actual data for the items covered in the reports called for under (a) and (b) above.

(d) *Attendance Outside System of Residence.* The reports called for under (a) and (c) above must include a statement covering (1) all students who reside within the boundaries of the school system but attend school in another system, and (2) all students who reside outside but attend a school within the system. This statement must set forth, for each group of students included in (1) and (2) above, the number of students, by race, color, or national origin, by grade, by school and school system attended, and by school system of residence.

(e) *Consolidation or Litigation .* A school system which is to undergo consolidation with another system or any other change in its boundaries, or which is involved in any litigation affecting desegregation, must promptly report the relevant facts and circumstances to the Commissioner.

(f) *Other Reports.* The Commissioner may require a school system to submit other reports relating to its compliance with Title VI.

§ 181.19 Records

A school system must keep available for not less than three years all records relating to personnel actions, transportation, including routes and schedules, and student assignments and transfers, including all choice forms and transfer applications submitted to the school system. The Commissioner may require retention for a longer period in individual cases.

[§§ 181.20 through 181.30 reserved]

Subpart C—*Additional Requirements for Voluntary Desegregation Plans Based on Geographic Attendance Zones*

§ 181.31 General

A voluntary desegregation plan based in whole or in part on geographic attendance zones must meet the requirements of this Subpart for all students whose assignment to schools is determined by such zones. The general requirement for desegregation plans set forth elsewhere in this Statement of Policies are also applicable.

§ 181.32 Attendance Zones

A single system of non-racial attendance zones must be established. A school system may not use zone boundaries or feeder patterns designed to perpetuate or promote segregation, or to limit desegregation or maintain what is essentially a dual school structure. A school system planning (1) to desegregate certain grades by means of geographic attendance zones and other grades by means of free choice of schools, or (2) to include more than one school of the same level in one or more attendance zones and to offer free choice of all schools within such zones, must show that such an arrangement will most expeditiously eliminate segregation and all other forms of discrimination. In any such case, the procedures followed for the offer, exercise and administration of free choice of schools must conform to the provisions of Subpart D below.

§ 181.33 Assignment to School in Zone of Residence

Regardless of any previous attendance at another school, each student must be assigned to the school serving his zone of residence, and may be transferred to another school only in those cases which meet the following requirements:

(a) *Transfer for Special Needs.* A student who requires a course of study not offered at the school serving his zone, or who is physically handicapped, may be permitted, upon his written application, to transfer to another school which is designed to fit, or offers courses for, his special needs.

(b) *Minority Transfer Policy.* A school system may (1) permit any student to transfer from a school where students of his race are a majority to any other school, within the system, where students of his race are a minority, or (2) assign students on such basis.

(c) *Special Plan Provisions.* A student who specifically qualifies to attend another school pursuant to the provisions of a desegregation plan accepted by the Commissioner may be permitted, upon his written application, to transfer to such other school.

§ 181.34 Notice

(a) *Individual Notice.* On a convenient date between March 1 and April 30 in each year, each school system must distribute, by first class mail, a letter to the parent, or other adult person acting as parent, of each student who is then enrolled, except high school seniors expected to graduate, giving the name and location of the school to which the student has been assigned for the coming school year pursuant to the desegregation plan, and information concerning the bus service between his school and his neighborhood. All these letters must be mailed on the same day. Each letter must be accompanied by a notice, in a form prescribed by the Commissioner, explaining the desegregation plan. The same letter and notice must also be furnished, in person or by mail, to the parent of each prospective student, including each student planning to enter the first grade or kindergarten, as soon as the school system learns that he plans to enroll.

(b) *Published Notice.* The school system must arrange for the conspicuous publication of an announcement, identical with the text of the notice provided for under (a) above, in the newspaper most generally circulated in the community, on or shortly before the date of mailing under (a) above. Publication as a legal notice is not sufficient. Whenever any revision of attendance zones is proposed, the school system must similarly arrange for the conspicuous publication of an announcement at least 30 days before any change is to become effective, naming each school to be affected and describing the proposed new zones. Copies of all material published hereunder must also be given at that time to all television and radio stations serving the community.

(c) *Maps Available to Public.* A street or road map showing the boundaries of, and the school serving, each attendance zone must be freely available for public inspection at the office of the Superintendent. Each school in the system must have freely available for public inspection a map showing the boundaries of its attendance area.

§ 181.35 Reports

(a) *Attendance Zones.* The report submitted under § 181.18(a) by April 15 of each year must be accompanied by a map, which must show the name and location of each school facility planned to be used during the coming school year, the attendance zones for each school in effect during the current school year, and any changes in the attendance zones planned for the coming school year. The map need not be of professional quality. A clipping of each newspaper announcement and any map published under § 181.34 (b) or (c) above must be sent to the Commissioner within three days after publication and, in the case of proposed revisions, must be accompanied by data showing the estimated change in attendance, by race, color, or national origin and by grade, and in the racial composition of the professional staff, at each school to be affected.

(b) *Attendance Outside Zone of Residence.* Whenever a student is permitted to attend a school other than that serving his zone of residence, and whenever a request for such attendance is denied, the school system must retain records showing (1) the school and grade applied for, (2) the zone of the student's residence and his grade therein, (3) the race, color, or national origin of the student, (4) the reason stated for the request, and (5) the reason the request is granted or denied. Whenever the total number of transfers permitted from any school exceeds two percent of the student enrollment at that school, the relevant facts must be reported promptly to the Commissioner.

[§§ 181.36 through 181.40 reserved]

Subpart D—*Additional Requirements for Voluntary Desegregation Plans Based on Free Choice of Schools*

§ 181.41 General

A voluntary desegregation plan based in whole or in part on free choice of schools must meet the requirements of this Subpart for all students whose assignment to schools is determined by free choice. The general requirements for desegregation plans set forth elsewhere in this Statement of Policies are also applicable.

§ 181.42 Who May Exercise Choice

A choice of schools may be exercised by a parent or other adult person serving as the student's parent. A student may exercise his own choice if he (1) is exercising a choice for the ninth or a higher grade, or (2) has reached the age of fifteen at the time of the exercise of choice. Such a choice by a student is controlling unless a different choice

is exercised for him by his parent, or other adult person acting as his parent, during the period in which the student exercises his choice. Each reference in this Subpart to a student exercising a choice means the exercise of the choice by a parent or such other adult, or by the student himself, as may be appropriate under this provision.

§ 181.43 Annual Mandatory Exercise of Choice

Each student must be required to exercise a free choice of schools once annually. A student may not be enrolled or assigned to a school without exercising his choice, except as provided in § 181.45 below.

§ 181.44 Choice Period

A period of at least 30 days must be provided for exercising choice, to commence no earlier than March 1 and to end no later than April 30, preceding the school year for which choice is to be exercised. The Commisisoner may require an additional period or different dates for a particular school system. No preference in school assignment may be given on the basis of an early exercise of choice during the choice period.

§ 181.45 Failure To Exercise Choice

A failure to exercise a choice within the choice period does not excuse a student from exercising his choice, which may be done at any time before he commences school for the year with respect to which the choice applies. However, any such late choice must be subordinated to the choices of students who exercised choice during the choice period. If by a week after school opens there is any student who has not yet exercised his choice of school, he must be assigned to the school nearest his home where space is available. Standards for determining available space must be applied uniformly throughout the system.

§ 181.46 Letters to Parents, Notices, and Choice Forms

(a) *Mailings.* On the first day of the choice period, each school system must distribute, by first class mail, a letter, an explanatory notice, and a choice form, to the parent or other adult person acting as parent of each student who is then enrolled, except high school seniors expected to graduate, together with a return envelope addressed to the Superintendent. The texts for the letter, notice, and choice form to be used must be in a form prescribed by the Commissioner.

(b) *Extra Copies.* Extra copies of the letter, the notice, and the choice form must be freely available to parents, students, prospective students, and the general public, at each school in the system and at the office of the Superintendent.

(c) *Content of Choice Form.* Unless otherwise authorized or required by the Commissioner, each choice form, as prepared by the school system for distribution, (1) must set forth the name and location of, and the grades offered at, each school, and (2) may inquire of the person exercising the choice only the name, address, and age of the student, the school and grade currently or most recently attended by the student, the school chosen, the signature of one parent or other adult person serving as parent or, where appropriate under § 181.42 above, the signature of the student, and the identity of the person signing. If necessary to provide information required by §§ 181.18 and 181.19 above, or for other reports required by the Commissioner, the choice form may also ask the race, color, or national origin of the student. No statement of reasons for a particular choice, or any other information, or any witness or other authentication, may be required or requested. No other choice form, including any pupil placement law form may be used by the school system in connection with the choice of a school.

(d) *Return of Choice Form.* At the option of the person completing the choice form, it may be returned by mail or by hand to any school in the school system or to the office of the Superintendent.

(e) *Choices Not on Official Form.* Exercise of choice may also be made by the submission in like manner of any other writing which sufficiently identifies the student and indicates that he has made a choice of a school.

§ 181.47 Prospective Students

Each prospective student, including each student planning to enter the first grade or kindergarten, must be required to exercise a free choice of schools before enrollment. Each such student must be furnished a copy of the prescribed letter, notice, and choice form, by mail or in person, on the date the choice period opens or as soon thereafter as the school system learns that he plans to enroll. Each must be given an opportunity to exercise his choice during the choice period. A prospective student exercising his choice after the choice period must be given at least one week to do so.

§ 181.48 Choice May Not Be Changed

Once a choice has been submitted, it may not be changed for the school year to which it applies, whether during the choice period, after the choice period, or during that school year, except on request (1) in cases meeting the conditions set forth in § 181.50 below, (2) in case of a change of residence to a place where another school serving the student's grade level is closer than the school to which he is assigned under these provisions, and (3) in case of a compelling hardship. A student who cannot enter the school of his choice because the grade he is to enter is not offered at that school must be promptly notified as soon as this is known and must be given the same opportunity to choose another school as is provided a prospective student under § 181.47 above.

§ 181.49 Assignment According to Choice

No choice may be denied in assigning students to schools for any reason other than overcrowding. In cases where overcrowding would result at one or more schools from the choices made, preference

must be given on the basis of the proximity of schools to the homes of students, without regard to race, color, or national origin. No preference may be given to students for prior attendance at a school if such preference would deny other students their free choice of schools under the plan. In cases where this provision would result in unusual difficulty involving, for instance, students not being able to finish their senior year in a particular school, or students being unable to attend school with other members of the same family, or at a school having special courses required by a student, the relevant facts may be brought to the attention of the Commissioner for consideration of alternative procedures. Any student whose choice is denied under these provisions must be notified in writing promptly and given his choice of each school in the system serving his grade level where space is available. Standards for determining overcrowding and available space that are applied uniformly throughout the system must be used if any choice is to be denied. Each student and his parent, or other adult person acting as parent, must be notified in writing of the name and location of the school to which the student is assigned hereunder promptly upon completion of processing his first or any second choice. A school system may, at its option, give preference to any student whose choice is for a school at which students of his race are a minority.

§ 181.50 Transfers for Special Needs

Each student must attend the school to which he is assigned under the foregoing provisions, except that any student who requires a course of study not offered at that school, or who is physically handicapped, may be permitted, upon his written application, to transfer to another school which is designed to fit, or offers courses for, his special needs.

§ 181.51 No Limitation of Choice; Transportation

No factor, such as a requirement for health or birth records, academic or physical examinations, the operation of the school transportation system, or any other factor except overcrowding, may limit or affect the assignment of students to schools on the basis of their choices. Where transportation is generally provided, buses must be routed to the maximum extent feasible so as to serve each student choosing any school in the system. In any event, every student choosing either the formerly white or the formerly Negro school (or other school established for students of a particular race, color, or national origin) nearest his residence must be transported to the school to which he is assigned under these provisions, whether or not it is his first choice, if that school is sufficiently distant from his home to make him eligible for transportation under generally applicable transportation rules.

§ 181.52 Officials Not To Influence Choice

No official, teacher, or employee of the school system may require or request any student or prospective student to submit a choice form during the choice period other than by the prescribed letter, notice, and choice form. After the choice period, the school system must make all reasonable efforts to obtain a completed choice form from any student who has not exercised a choice. However, at no time may any official, teacher, or employee of the school system, either directly or indirectly, seek to influence any parent, student, or any other person involved, in the exercise of a choice, or favor or penalize any person because of a choice made. Information concerning choices made by individual students or schools to which they are assigned may not be made public.

§ 181.53 Public Notice

On or shortly before the date the choice period opens, the school system must arrange for the conspicuous publication of a notice describing the desegregation plan in the newspaper most generally circulated in the community. The text of the notice must be in a form prescribed by the Commissioner. Publication as a legal notice is not sufficient. Copies of this notice must also be given at that time to all radio and television stations serving the community. Any other announcement published by the school system concerning enrollment, such as might be made in connection with scheduling pre-enrollment procedures for prospective first grade students, must (1) state clearly that under the desegregation plan a choice of school is required for each student whose choice has not yet been exercised, (2) describe and state where copies of the prescribed letter, notice and choice form may be freely obtained in person, or by letter or telephone request, and (3) state the period during which the choice may be exercised.

§ 181.54 Requirements for Effectiveness of Free Choice Plans

A free choice plan tends to place the burden of desegregation on Negro or other minority group students and their parents. Even when school authorities undertake good faith efforts to assure its fair operation, the very nature of a free choice plan and the effect of longstanding community attitudes often tend to preclude or inhibit the exercise of a truly free choice by or for minority group students.

For these reasons, the Commissioner will scrutinize with special care the operation of voluntary plans of desegregation in school systems which have adopted free choice plans.

In determining whether a free choice plan is operating fairly and effectively, so as to materially further the orderly achievement of desegregation, the Commissioner will take into account such factors as community support for the plan, the efforts of the school system to eliminate the identifiability of schools on the basis of race, color, or national origin by virtue of the composition of staff or other

factors, and the progress actually made in eliminating past discrimination and segregation.

The single most substantial indication as to whether a free choice plan is actually working to eliminate the dual school structure is the extent to which Negro or other minority group students have in fact transferred from segregated schools. Thus, when substantial desegregation actually occurs under a free choice plan, there is strong evidence that the plan is operating effectively and fairly, and is currently acceptable as a means of meeting legal requirements. Conversely, where a free choice plan results in little or no actual desegregation, or where, having already produced some degree of desegregation, it does not result in substantial progress, there is reason to believe that the plan is not operating effectively and may not be an appropriate or acceptable method of meeting constitutional and statutory requirements.

As a general matter, for the 1966–67 school year the Commissioner will, in the absence of other evidence to the contrary, assume that a free choice plan is a viable and effective means of completing initial stages of desegregation in school systems in which a substantial percentage of the students have in fact been transferred from segregated schools. Where a small degree of desegregation has been achieved and, on the basis of the free choice registration held in the spring of 1966, it appears that there will not be a substantial increase in desegregation for the 1966–67 school year, the Commissioner will review the working of the plan and will normally require school officials to take additional actions as a prerequisite to continued use of a free choice plan, even as an interim device.

In districts with a sizable percentage of Negro or other minority group students, the Commissioner will, in general, be guided by the following criteria in scheduling free choice plans for review:

(1) If a significant percentage of the students, such as 8 percent or 9 percent, transferred from segregated schools for the 1965–66 school year, total transfers on the order of at least twice that percentage would normally be expected.

(2) If a smaller percentage of the students, such as 4 percent or 5 percent, transferred from segregated schools for the 1965–66 school year, a substantial increase in transfers would normally be expected, such as would bring the total to at least triple the percentage for the 1965–66 school year.

(3) If a lower percentage of students transferred for the 1965–66 school year, then the rate of increase in total transfers for the 1966–67 school year would normally be expected to be proportionately greater than under (2) above.

(4) If no students transferred from segregated schools under a free choice plan for the 1965–66 school year, then a very substantial start would normally be expected, to enable such a school system to catch up as quickly as possible with systems which started earlier. If a school system in these circumstances is unable to make such a start for the 1966–67 school year under a free choice plan, it will normally be required to adopt a different type of plan.

Where there is substantial deviation from these expectations, and the Commissioner concludes, on the basis of the choices actually made and other available evidence, that the plan is not operating fairly, or is not effective to meet constitutional and statutory requirements, he will require the school system to take additional steps to further desegregation.

Such additional steps may include, for example, reopening of the choice period, additional meetings with parents and civic groups, further arrangements with State or local officials to limit opportunities for intimidation, and other further community preparation. Where schools are still identifiable on the basis of staff composition as intended for students of a particular race, color, or national origin, such steps must in any such case include substantial further changes in staffing patterns to eliminate such identifiability.

If the Commissioner concludes that such steps would be ineffective, or if they fail to remedy the defects in the operation of any free choice plan, he may require the school system to adopt a different type of desegregation plan.

§ 181.55 Reports

(a) *Supporting Materials.* Each school system must submit to the Commissioner a copy of the letter, notice, and choice form, all as prepared by the school system for distribution, within three days after their first distribution, and must submit a clipping of all newspaper announcements published in accordance with § 181.53 above within three days after publication.

(b) *Data on Choices Not Being Honored.* In any case, including the case of conflicting choices under § 181.42 above, where a student chooses a school where he would be in a racial minority, and (1) he is to be assigned to a school where he would be in a racial majority, or (2) the school system proposes not to process his choice for any reason, the relevant facts must be reported promptly to the Commissioner.

(c) *Transfers for Special Needs.* Wherever a student is permitted, under §§ 181.48 or 181.50 above, to attend a school other than the school to which he is or would be assigned under the other applicable provisions hereof, and whenever a request for such attendance is denied, the school system must retain records showing (1) the school and grade applied for, (2) the school and grade to be transferred from, (3) the race, color, or national origin of the student, (4) the reason stated for the request, and (5) the reason the request is granted or denied. Whenever the total number of transfers permitted from any school exceeds two percent of the student enrollment at that school, the relevant facts must be reported promptly to the Commissioner.

[§§ 181.56 through 181.60 reserved]

Subpart E—*Miscellaneous Provisions*

§ 181.61 How To Submit Reports

Each report to the Commissioner required under this Statement of Policies must be sent by first class mail addressed to the Equal Educational Opportunities Program, U.S. Office of Education, Washington, D.C., 20202.

§ 181.62 Alternative Administrative Procedures

If an administrative procedure provided for under this Statement of Policies is not administratively feasible in a particular situation, the Commissioner may accept an alternative procedure if he determines that it will accomplish the same purpose.

§ 181.63 Revision of Statement of Policies

The Commissioner may modify this Statement of Policies as may be necessary to accomplish the purposes of Title VI.

§ 181.64 Copies of Documents for State Agencies

Each school system submitting any plan form or report to the Commissioner under this Statement of Policies must also submit a copy of such form or report to the appropriate State education agency.

§ 181.65 Choice Period Already Begun

In the event that any school system with a desegregation plan based on free choice has begun or completed its free choice period for the 1966–67 school year prior to the date of issue of this Statement of Policies, the school system must immediately report to the Commissioner its proposals for adapting its free choice procedures in such a way as to make them substantially conform to the provisions of this Statement of Policies.

§ 181.66 Definitions

As used in this part,

(a) The term "Commissioner" means the U.S. Commissioner of Education or any official acting under assignment or delegation from him to carry out any of his functions under this Statement of Policies.

(b) The term "discrimination" means discrimination on the ground of race, color, or national origin.

(c) The term "dual school structure" means a system of separate school facilities for students based on race, color, or national origin.

(d) The term "HEW Form 441" means the printed document provided for the use of certain school systems by the U.S. Department of Health, Education, and Welfare, entitled "Assurance of Compliance with the Department of Health, Education, and Welfare Regulation under Title VI of the Civil Rights Act of 1964."

(e) The term "HEW Form 441–B" means the printed document provided for the use of certain school systems by the U.S. Department of Health, Education, and Welfare entitled "Assurance of Compliance with the Revised Statement of Policies for School Desegregation Plans Under Title VI of the Civil Rights Act of 1964."

(f) The term "HEW Regulation" means the Regulation issued pursuant to Title VI of the Civil Rights Act of 1964 by the U.S. Department of Health, Education, and Welfare (Part 80, of Title 45, Code of Federal Regulations).

(g) The term "parent" means an adult individual who exercises parental control over, or is otherwise acting as parent of, a student or prospective student.

(h) The term "school official" shall include, but is not limited to, any person who serves on the governing board of a school system, or attends meetings of such board in an official capacity, and all administrative and supervisory personnel of a school system.

(i) The term "school system" means, as the context may require, either (1) a legally constituted school authority (such as a local board of education) which has administrative control of one or more elementary or secondary schools, (2) the geographic area over which any such school authority has administrative control for school purposes, or (3) the schools and facilities over which any such school authority has administrative control.

(j) The term "Statement of Policies" means this Revised Statement of Policies for School Desegregation Plans under Title VI of the Civil Rights Act of 1964.

(k) The term "Title VI" means Title VI of the Civil Rights Act of 1964 (PL 88–352, 42 USC 2000d to 2000d–4).

[§§ 181.67 to 181.70 reserved]

Subpart F—*Desegregation Plans Not Reaching All Grades for the 1966–67 School Year*

§ 181.71 Opportunity to Transfer in Grades Not Reached by Plan

In any school system in which, for the school year 1966–67, there are grades not yet reached by the desegregation plan, the school system must arrange for students to attend school on a desegregated basis in each of the special circumstances described in (a), (b), (c), and (d) below. This opportunity must be made available in such a way as to follow, to the maximum extent feasible, the desegregation procedures in grades generally reached by the plan, according to the type of plan in effect.

(a) *Transfer for a Course of Study.* A student must be permitted to transfer to a school in order to take a course of study for which he is qualified and which is not available in the school to which he would otherwise be assigned on the basis of his race, color, or national origin.

(b) *Transfer to Attend School With Relative.* A student must be permitted to transfer in order to attend the same school or attendance center as a brother, sister, or other relative living in his household, if such relative is attending a school as a result of a desegregation plan and if such school or attendance center offers the grade which the student would be entering.

(c) *Transfer for Students Required To Go Outside System.* A student must be permitted to transfer to any school within the system which offers the grade he is to enter if he would otherwise be required to attend school outside the system on the basis of his race, color, or national origin.

(d) *Transfer for Other Reasons.* A student must be permitted to transfer to a school other than the one to which he is assigned on the basis of his race, color, or national origin if he meets whatever requirements, other than race, color or national origin, the school system normally applies in permitting student transfers.

§ 181.72 Students New to the System

Each student who will be attending school in the system for the first time in the 1966-67 school year in any grade not yet generally reached by the desegregation plan must be assigned to school under the procedures for desegregation that are to be applied to that grade when it is generally reached by the desegregation plan.

§ 181.73 General Provisions Applicable

A student who has transferred to a school under § 181.71 above, or entered a school under § 181.72 above shall be entitled to the full benefits of § 181.14 above (relating to desegregation of services, facilities, activities and programs) and to any and all other rights, privileges, and benefits generally conferred on students who attend a school by virtue of the provisions of the desegregation plan.

§ 181.74 Notice

Each school system in which there will be one or more grades not fully reached by the desegregation plan in the 1966–67 school year must add a paragraph describing the applicable transfer provisions at the end of the notice distributed and published pursuant to § 181.34 above or §§ 181.46 and 181.53 above, as is appropriate for the type of plan adopted by the school system. The text of the paragraph must be in a form prescribed by the Commissioner. The school system must make such other changes to the notice as may be necessary to make clear which students will be affected by attendance zone assignments or free choice requirements.

In addition, for the letter to parents required in § 181.46, school systems with free choice plans which have not desegregated every grade must use a letter describing the plan and will enclose with the letter sent to parents of students in grades not desegregated a transfer application instead of a choice form. For the letter to parents required in § 181.34, school systems with geographic zone plans must send to each parent of students in grades not desegregated a letter describing the plan and a transfer application. The text for these letters and the transfer application must be in a form prescribed by the Commissioner.

§ 181.75 Processing of Transfer Applications

Applications for transfer may be submitted on the transfer application form referred to in § 181.74 above or by any other writing. If any transfer application is incomplete, incorrect or unclear in any respect, the school system must make every reasonable effort to help the applicant perfect his application. Under plans based on geographic zones, and under plans based on free choice of schools, the provisions of § 181.42 as to whether a student or his parent may make a choice of school, shall also determine whether a student in a grade not yet generally reached by desegregation may execute a transfer application.

§ 181.76 Reports and Records

In each report to the Commissioner under §§ 181.18, 181.35, and 181.55 above, the school system must include all data, copies of materials distributed and other information generally required, relative to all students, regardless of whether or not their particular grades have been generally reached by the plan. Similarly the system must retain the records provided for under §§ 181.19, 181.35, and 181.55 above with respect to all students.

[§§ 181.77 through 181.80 reserved]

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